

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS
LIABILITY LITIGATION

MDL No. 2419
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**THE PLAINTIFFS' STEERING COMMITTEE'S PROPOSED AGENDA
FOR THE NOVEMBER 12, 2015 STATUS CONFERENCE**

The Plaintiffs' Steering Committee proposes the following agenda for the November 12, 2015 status conference. The defendants, the Post Confirmation Officer, the FDA, the Massachusetts Board of Registration in Pharmacy, and the U.S. Attorney's office have been given an opportunity to comment on this proposed agenda.

A. MOTION REQUESTED FOR ORAL ARGUMENT¹

1. Plaintiff Wayne Reed's Motion to Set Case for Trial [Dkts. 1882, 1883]
 - a. Saint Thomas Entities' Opposition [Dkt. 1963]
 - b. Tennessee Clinic Defendants' Response [Dkt. 1968]

B. REPORT TO THE COURT

2. Status of bankruptcy
3. Status of insurance declaratory judgment actions
 - a. *State Farm Fire and Casualty Company v. Specialty Surgery Center PLLC, et al.*, 2:15-cv-00026 (M.D. Tenn.)
 - i. Specialty Surgery Center Defendants' Notice of Status of Product Liability Claims and Certification to Tennessee Supreme Court [Dkt. 2285]
 - ii. STOPNC Patients' Motion to Intervene
 - iii. Nov. 3, 2015 Memorandum Order from Judge Sharp regarding

¹ This motion is also identified in the PSC's motion for oral argument [Dkt. 2394].

Certification of Product Liability Issue to Tennessee Supreme Court

4. Status of discovery

- a. Assented-To Motion to Extend Common Discovery Deadlines Related to New Jersey Defendants (*forthcoming*)
- b. Court rulings update
 - i. Order on Saint Thomas Entities' Motion to Continue Proximate Causation Discovery [Dkt. 2330]
 - ii. Order on Tennessee Clinic Defendants' Motion to Compel NECC [Dkt. 2334]
 - iii. Order on PSC Motion to Compel Saint Thomas Entities [Dkt. 2335]
 - iv. Order Granting Qualified Protective Order for the Production of Certain Information Maintained by the Maryland Department of Health and Mental Hygiene [Dkt. 2336]
 - v. Order on USA Motion to Intervene [Dkt. 2354]
 - vi. Order Denying Finnegan-Haynes Motion to Quash [Dkt. 2355]
 - vii. Order Denying Ocean State's Motion to Disclose Grand Jury Minutes [Dkt. 2373]
 - viii. Order Denying Saint Thomas Entities' Motion to Compel Ameridose [Dkt. 2392]

5. Status of litigation track

- a. PSC Proposed Order Regarding Procedure for Dismissals [Dkt. 2351]
- b. Saint Thomas Entities' Notice of Exercise of Bellwether Strikes [Dkt. 2337]
- c. Saint Thomas Entities' Notice of Filing Proposed Bellwether Discovery Schedule [Dkt. 2340]
 - i. Tennessee Clinic Defendants' Joinder [Dkt. 2341]
- d. PSC Proposed Bellwether Discovery Schedule [Dkt. 2342]
- e. PSC Motion to Amend Complaints to Add Calisher & Associates as Defendant in Cases Related to Claims Against Specialty Surgery Center [Dkts. 2380, 2381]

6. Update on Michigan state court proceedings
7. Report from *Pro Se* Liaison
8. Schedule for future status conferences
 - a. December 17, 2015, 2:00 p.m. (J. Zobel)
 - b. January 14, 2:00 p.m. (J. Zobel)
 - c. January 15, 2:30 p.m. (J. Boal)

C. FULLY BRIEFED MOTIONS

Discovery-Related Motions

9. Saint Thomas Entities' Motion to Compel Greg Conigliaro [Dkts, 2282, 2283]
 - a. USA Opposition [Dkt. 2322]
 - b. Greg Conigliaro's Opposition [2324]
10. Saint Thomas Entities' Motion to Compel MSM [Dkts. 2248, 2249] (*oral argument held before Judge Boal on October 14*)
 - a. United States Opposition [Dkt. 2273]
 - b. MSM Opposition and Cross-Motion for Protective Order [Dkt. 2289]
 - c. Saint Thomas Entities' Response [Dkt. 2304]

Other Motions

11. Choice of Law Briefing
 - i. Letters
 - i. Premier Defendants' Letter [Dkt. 1915]
 - ii. BKC Defendants' (et al.) Letter [Dkt. 1921]
 - iii. Box Hill Defendants' (et al.) Letter [Dkt. 1922]
 - b. Three Pagers
 - i. PSC's Statement [Dkt. 1924]
 - ii. Trustee's Statement [Dkt. 1925]
 - iii. Saint Thomas Entities' Statement [Dkt. 1926]
 - iv. Tennessee Clinic Defendants' Statement [Dkt. 1942]
 - v. Premier Defendants' Statement [Dkt. 1927]
 - vi. GDC's Statement [Dkt. 1928]
 - vii. FDA's Statement [Dkt. 1948]
 - c. Order re Choice of Law Issues [Dkt.1938]

d. Briefs in Response to Order:

- i. PSC's Response [Dkt. 2004]
- ii. Ameridose's Joinder in PSC's Memorandum Regarding Choice of Law for cases filed in TN and NJ [Dkt. 2018]
- iii. Saint Thomas Entities' Response [Dkt. 2071]
- iv. Tennessee Clinic Defendants' Response [Dkt. 2073]
- v. Specialty Surgery Clinic Defendants' Response [Dkt. 2064]
- vi. Premier Defendants' Response [2072]
- vii. Bhagat and Perkins' Response [Dkt. 2074]
- viii. PSC's Reply [Dkt. 2097]

D. BRIEFING IN PROGRESS

Discovery-Related Motions

- 12. PSC Motion for Protective Order Regarding Box Hill's Notice of Deposition by Written Questions [Dkt. 2353]
 - a. PSC Motion to Seal [Dkt. 2352]
 - b. Box Hill Stipulation for Extension of Time to Respond [Dkt. 2386]
- 13. PSC Motion for Protective Order Regarding Premier's Notice of Deposition by Written Questions [Dkts. 2372, 2374]
 - a. PSC Motion to Seal Motion for Protective Order Regarding Premier's Notice of Deposition by Written Questions [Dkt. 2371]
 - b. Premier Opposition [Dkt. 2385]
- 14. Saint Thomas Entities' Motion to Compel NECC [Dkts. 2367, 2368]
 - a. Saint Thomas Entities' Motion to Seal Exhibit B to Memorandum on Motion to Compel NECC [Dkt. 2370]

Dispositive Motions

- 15. PSC Motion for Partial Summary Judgment Regarding Product Liability Claims Against Saint Thomas Outpatient Neurosurgical Center [Dkts. 2300, 2302]
 - a. Tennessee Clinic Defendants' Emergency Motion for Extension of Time to Respond to PSC Motion for Partial Summary Judgment Regarding Product Liability Claims Against Saint Thomas Outpatient Neurosurgical Center [Dkt. 2339]

i. PSC Response [Dkt. 2350]

16. Premier Motion to Dismiss All Product Liability Claims [Dkt. 2387]
17. Ocean State Motion to Dismiss Product Liability Claims [Dkt. 2388]
18. Barakat Motion to Dismiss Product Liability Claims [Dkt. 2390]

Other Motions

19. Tennessee Clinic Defendants' Motion to Amend and Certify Order for Interlocutory Appeal [Dkts. 2356, 2357]
 - a. PSC Opposition [Dkt. 2393]

Dated: November 10, 2015

Respectfully submitted,

/s/ Kristen A. Johnson

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CERTIFICATE OF SERVICE

I, Kristen A. Johnson, hereby certify that I caused a copy of the above Proposed Agenda to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: November 10, 2015

/s/ Kristen A. Johnson

Kristen A. Johnson, BBO # 667261